

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO. 7056 OF 2006

Chain Biharilal Gupta.. ... Petitioner.

Versus

Prathvipal Ramkumar Dube & Anr..... Respondents.

None for the Petitioner.
Mr. A. A. Garge for Respondent No.1.

CORAM : B.H.MARLAPALLE, J.

DATED : 20TH APRIL, 2007.

P.C.:

None present for the petitioner. Mr. A. A. Garge, learned Counsel appears for respondent no.1.

2. R. C. Suit No. 310 of 1996 which was filed for seeking decree of eviction on the ground of arrears of rent and bonafide requirement came to be decreed by the learned IVth Joint Civil Judge, Junior Division & J.M.F.C., Ulhasnagar by the judgment and order dated 30th June, 2001 thereby directing the defendant no.1 to handover vacant and peaceful possession of the suit premises to the plaintiff within two months. Aggrieved by the said judgment and order, the

defendant filed Appeal No. 124 of 2001 which came to be dismissed by the learned Additional District Judge at Kalyan, vide his judgment and order dated 28th February, 2006.

3. In this writ petition the judgment and order passed by the lower appellate court confirming the judgment and order passed by the learned trial Judge, under the Bombay Rents Hotels & Lodging House Rates (Control) Act is challenged. In Writ Petition No. 4138 of 2006, I have already taken a view vide order dated 24th August, 2006 that such decree can be challenged by filing a civil revision application under Section 115 of the Code of Civil Procedure. I have further observed that when such a statutory remedy is available, a writ petition under Article 227 of the Constitution of India need not be entertained.

4. Hence, the writ petition is disposed of as such with liberty to the petitioner to file a civil revision application and if such a civil revision application is filed within a period of four weeks from today, the period of pendency of this writ petition be taken into consideration for condonation of delay, if any.

5. Annexures to the petition memo be returned, if applied for.

6. Writ petition is disposed of, accordingly.

Sd/-

(B. H. MARLAPALLE, J.)